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 Reynaldo Salinas, Isabel Salinas,  
 And Jessica Salinas, Individually  
 And as Representative of the  
 Estate of Jose Martin Salinas*

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

REYNALDO SALINAS, ET AL,	)	Case No.: CV 08-01463 (PJH)
	)	
Plaintiffs,	)	<b>EX PARTE MOTION TO</b>
	)	<b>CHANGE TIME</b>
vs.	)	
	)	
AMTECK OF TEXAS, ET. AL.,	)	Date: July 23, 2008
	)	Time: 9:00 a.m.
Defendants.	)	Courtroom: 3
	)	

**PLAINTIFFS' EX PARTE MOTION TO CHANGE TIME OF HEARING ON  
 DEFENDANTS AMTECK OF KENTUCKY, INC. and  
 THE HASKELL COMPANY'S MOTION FOR ASSESSMENT OF FEES AND COSTS  
 AGAINST PLAINTIFFS AND FOR STAY OR DISMISSAL OF PROCEEDING  
 PENDING PAYMENT SET FOR JULY 23, 2008**

In accordance with L.R. 6-3, Plaintiffs move for an order to change the time of the hearing scheduled for July 23, 2008 on Defendants' Motion for Assessment of Fees and Costs Against Plaintiffs and for Stay or Dismissal of Proceeding Pending Payment.

MOTION TO RESET HEARING ON DEFENDANTS  
 MOTION FOR ASSESSMENT OF FEES AND  
 COSTS AGAINST PLAINTIFFS

1           1.       Since the hearing Plaintiffs seek to move is on July 23, 2008, Plaintiffs cannot  
2       give the required 35 days notice pursuant to L.R. 7-2(a). Therefore, Plaintiffs file this motion  
3       *ex parte* and ask the Court to change the time for the hearing on Defendants Motion for  
4       Assessment of Fees and costs pursuant to L.R. 6-3(d).

5           2.       Defendants have filed a Defendants Motion for Assessment of Fees and Costs  
6       Against Plaintiffs and for Stay or Dismissal of Proceedings Pending Payment related to a  
7       prior action filed by Plaintiffs over the incident made the basis of this lawsuit. Plaintiffs have  
8       filed a response to Defendants' motion stating that Defendants' motion should fail in both  
9       fact and law. Plaintiffs incorporate their response to Defendants' motion for the assessment  
10      of fees and costs filed contemporaneously with this motion to change time as if fully set forth  
11      herein.

12           3.       The grounds for this motion are the Plaintiffs' lead attorney, Michael Hawash, is  
13      scheduled for trial in 80<sup>th</sup> Judicial District Court of Harris County, Texas on a trial docket  
14      beginning July 21, 2008 (as evidenced by the Docket Control Order attached hereto as  
15      Exhibit A). There is no indication that this case will settle or not go to trial as currently  
16      scheduled.

17           4.       Plaintiffs' counsel has attempted to meet and confer with counsel for Defendants  
18      to reschedule the hearing by stipulation in accordance with L.R. 6-1(a). However,  
19      Defendants have refused to reset the hearing until after Mr. Hawash's trial is complete (as  
20      evidenced by the letter attached hereto as Exhibit B).

21           5.       Plaintiffs will incur substantial harm if the hearing is not reset as Plaintiffs' lead  
22      counsel, Michael Hawash, is already set for trial in Harris County, Texas on this date and  
23      simply cannot attend the hearing.  
24  
25

1           6.       There have been no prior stipulations or motions to move this hearing.

2           7.       Moving this hearing will have no effect on the schedule for this case as the initial  
3 scheduling conference has not yet been held and is set to go forth on July 31, 2008. If Mr.  
4 Hawash is still in trial on this date, the initial scheduling conference will be attended by  
5 Plaintiffs' local counsel, Timothy D. McMahon.

6           8.       For the foregoing reasons, Plaintiffs respectfully request the Court reset the  
7 hearing on Defendants Motion for Assessment of Fees and Costs Against Plaintiffs and for  
8 Stay or Dismissal of Proceedings Pending Payment for a date after August 4, 2008.  
9

10  
11 Dated: July 2, 2008

***FARRAR & BALL***

*/s/ Michael Hawash*

\_\_\_\_\_  
Michael Hawash, Esq.  
Attorney for Plaintiffs

12  
13  
14 Dated: July 2, 2008

***CORSIGLIA MCMAHON & ALLARD***

*/s/ Timothy D. McMahon*

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Timothy D. McMahon, Esq.  
Attorney for Plaintiffs

CERTIFICATE OF CONFERENCE

I certify that on June 30, 2008, my office contacted John P. Cotter and he is opposed to resetting his hearing on Defendants Motion for Assessment of Fees and Costs Against Plaintiffs and for Stay or Dismissal of Proceeding Pending Payment.

*/s/ Michael A. Hawash*

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MICHAEL A. HAWASH

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and forgoing document was sent via ELECTRONIC SERVICE (through ECF website) to the counsel listed below on July 2, 2008:

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MOTION TO RESET HEARING ON DEFENDANTS  
MOTION FOR ASSESSMENT OF FEES AND  
COSTS AGAINST PLAINTIFFS

1  
2 I declare under penalty of perjury that the forgoing is true and correct.

3 */s/ Timothy D. McMahon*

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TIMOTHY D. MCMAHON